UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION


**MICHAEL K. RILEY,**

      **Plaintiff,**

                                    **Civil Action 2:13-CV-00911**

  **v.**                              **Judge Edmund A. Sargus, Jr.**

                                    **Magistrate Judge Elizabeth P. Deavers**


**CYNTHIA PICCIANO,** *et al.,*

      **Defendants.**


**ORDER AND REPORT AND RECOMMENDATION**

      This matter is before the Court for consideration of Plaintiff's Objections to the Report

and Recommendation of the Magistrate Judge.  (ECF No. 5.)  Plaintiff's objections clarify the

allegations he purports to make in his Complaint.  Specifically, it appears from his objections

that he alleges in his Complaint a failure to make reasonable accommodation and retaliation

under the Americans with Disabilities Act, 42 U.S.C. §§ 1210 *et seq*.  Although the Court makes

no determination as to the merits of Plaintiff's allegations, or as to whether his Complaint may

withstand a Motion to Dismiss, in light of this clarification the September 23, 2013 Report and

Recommendation of the Magistrate Judge is **RECOMMITTED** for further screening of

Plaintiff's Complaint pursuant to 28 U.S.C. § 636(b)(1)(c).  (ECF No. 3.)  Upon reconsideration,

the Clerk is **DIRECTED** to remove the Report and Recommendation from the Court's pending

motions list.

      Having conducted another initial screen of the Complaint together with Plaintiff's

objections, pursuant to 42 U.S.C. §§ 1915(e)(2), the Court concludes that Plaintiff may proceed

with this action at this time against Defendants Cynthia Picciano, Kevin Brooks, and Jerry

McAfee.  The United States Marshal is **DIRECTED** to serve by certified mail upon these

Defendants a summons, a copy of the Complaint, a copy of Plaintiff's Objection, and a copy of

this Order.

As to Defendants Alesia Gillison and Maurice Oldham, the Court again

**RECOMMENDS** that Plaintiff's claims be dismissed under 42 U.S.C. § 1915(e).  Plaintiff has

failed to state a claim for relief against these Defendants, alleging only that they attended a

hearing at which Plaintiff received a three day suspension.   (ECF No. 5 at 2.)  This single factual

statement does not suffice to state any cognizable claim over which this Court would have

jurisdiction.  Accordingly, it is **RECOMMENDED** that Plaintiff's claims against Defendants

Alesia Gillison and Maurice Oldham be **DISMISSED** under 42 U.S.C. § 1915(e).

## PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that

party may, within fourteen (14) days, file and serve on all parties objections to the Report and

Recommendation, specifically designating this Report and Recommendation, and the part in

question, as well as the basis for objection.  28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Response to objections must be filed within fourteen (14) days after being served with a copy.

Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and

Recommendation will result in a waiver of the right to *de novo* review by the District Judge and

waiver of the right to appeal the judgment of the District Court. *See, e.g.*, *Pfahler v. Nat'l Latex

Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate

judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district

court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that

defendant waived appeal of district court's denial of pretrial motion by failing to timely object to

magistrate judge's report and recommendation). Even when timely objections are filed, appellate

review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994

(6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which fails to specify the

issues of contention, does not suffice to preserve an issue for appeal . . . .") (citation omitted)).

    **IT IS SO ORDERED.**


Date: October 11, 2013                       /s/ *Elizabeth A. Preston Deavers*
                                             Elizabeth A. Preston Deavers
                                             United States Magistrate Judge